

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

No. 4:08-CR-19-1-F  
No 4:11-CV-42-F

TIMOTHY MARK PARMER  
Petitioner

v.

UNITED STATES OF AMERICA  
Defendant.

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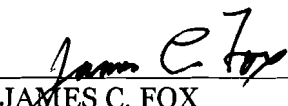
O R D E R  
CERTIFICATE OF APPEALABILITY

On remand from the Fourth Circuit Court of Appeals, *see United States v. Parmer*, No. 11-6501 (4<sup>th</sup> Cir. April 19, 2011), the court finds that Parmer has made a substantial showing of the denial of a constitutional right, in that reasonable jurists would find that this court's assessment of the constitutional claim is debatable or wrong. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003).

Accordingly, a Certificate of Appealability is ALLOWED as to the issue whether Parmer received ineffective assistance of counsel at sentencing or on appeal in relation to Parmer's alleged specific request that his attorneys challenge application of the three-level increase in his base offense level pursuant to USSG § 2B3.1(b)(2)(E) ("a dangerous weapon was brandished or possessed").

SO ORDERED.

This, the 20<sup>th</sup> day of April, 2011.

  
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JAMES C. FOX  
Senior United States District Judge